STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)		
MANUEL RIVERA SANCHEZ,)))		
Complainant,)	CHARGE NO(S): EEOC NO(S): ALS NO(S):	
SCHOOL DISTRICT NO. 47, CRYSTAL LAKE,)))		
Respondent.)		
	NOTICE		
You are hereby notified that the Illin	nois Huma	n Rights Commission has n	ot received
timely exceptions to the Recommended C	order and [Decision in the above named	d case.
Accordingly, pursuant to Section 8A-103(A	۹) and/or 8	Bb-103(A) of the Illinois Hum	an Rights Act
and Section 5300.910 of the Commission	's Procedu	ral Rules, that Recommend	ed Order and
Decision has now become the Order and	Decision c	of the Commission.	
STATE OF ILLINOIS	١		
HUMAN RIGHTS COMMISSION)	Entered this 23 rd day of A	ugust 2010
		N. KEITH CHAMBI EXECUTIVE DIREC	

STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)		
MANUEL RIVERA SANCHEZ,) }		
Complainant,) }		
and)	Charge No.: EEOC No.:	
SCHOOL DISTRICT NO. 47,)	ALS No.:	07-223
CRYSTAL LAKE,)	Judge Lester	r G. Bovia, Jr.
Respondent.)		

RECOMMENDED ORDER AND DECISION

This matter is before the Commission on Respondent's Motion for Summary Decision ("Motion"). Complainant was given an opportunity to respond to the Motion, but failed to do so. Although Complainant filed no response, Respondent filed a reply. Accordingly, this matter is now ready for disposition.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

FINDINGS OF FACT

The following facts were derived from uncontested sections of the pleadings, affidavits, and other documents submitted by the parties. The findings did not require, and were not the result of, credibility determinations. Moreover, all evidence was viewed in the light most favorable to Complainant.

- 1. Complainant was hired by Respondent on August 23, 1984. Complainant worked as a school custodian.
- 2. On April 15, 2003 at approximately 2:00 p.m., Complainant urinated on some pine trees approximately 20 feet from the window of a classroom at North Middle School in Crystal Lake,

Illinois. Complainant urinated with his back to the classroom window so as not to expose himself to people in the classroom. Nevertheless, the classroom teacher, Eva Gobtop, the teacher's assistant, Dee Rizleris, and the students all observed Complainant from the window and knew that he was urinating.

- 3. While Complainant was urinating, Ms. Gobtop and Ms. Rizleris complained to the school principal, Lori Sorensen, by intercom. Ms. Gobtop and Ms. Rizleris reiterated their complaint to Ms. Sorensen by memorandum dated April 24, 2003.
- 4. Ms. Sorensen contacted Ed Davis, the custodial supervisor, who met with Complainant about the incident. Mr. Davis arranged for a Spanish translator to attend his meeting with Complainant.
- 5. Respondent terminated Complainant by letter dated April 25, 2003.
- 6. Prior to the urinating incident, Complainant had been meeting Respondent's performance expectations.
- 7. On September 7, 2005, Complainant filed a charge of discrimination against Respondent with the Department. Complainant alleges that Respondent terminated him as a result of unlawful age and disability discrimination. Respondent denies Complainant's allegations.

CONCLUSIONS OF LAW

- 1. The alleged discriminatory act, Complainant's termination, took place more than 180 days prior to the date on which Complainant filed his charge of discrimination.
- 2. Complainant's charge of discrimination was untimely filed.
- 3. This tribunal lacks jurisdiction to consider the merits of Complainant's allegations due to the untimely filing of the charge.
- 4. As a matter of law, the Motion must be granted, and the complaint and underlying charge must be dismissed in their entirety with prejudice.

DISCUSSION

I. SUMMARY DECISION STANDARD

Under section 8-106.1 of the Illinois Human Rights Act ("Act"), either party to a complaint may move for summary decision. 775 ILCS 5/8-106.1. A summary decision is analogous to a summary judgment in the Circuit Courts. Cano v. Village of Dolton, 250 III. App. 3d 130, 138, 620 N.E.2d 1200, 1206 (1st Dist. 1993). A motion for summary decision should be granted when there is no genuine issue of material fact and the moving party is entitled to a recommended order in its favor as a matter of law. Fitzpatrick v. Human Rights Comm'n, 267 III. App. 3d 386, 391, 642 N.E.2d 486, 490 (4th Dist. 1994). Inasmuch as summary decision is a drastic means for resolving litigation, the movant's right to a summary decision must be clear and free from doubt. Purtill v. Hess, 111 III.2d 229, 240 (1986).

II. COMPLAINANT'S CHARGE WAS UNTIMELY FILED

Section 7A-102(A) of the Act governs the procedures for filing charges of discrimination. Its timeliness rule is clear; charges must be filed within 180 days of the alleged discriminatory action. 775 ILCS 5/7A-102(A)(1). The 180-day time period is a jurisdictional requirement. Larrance v. Human Rights Comm'n, 166 III. App. 3d 224, 231-33, 519 N.E.2d 1203, 1208-10 (4th Dist. 1988).

In this case, Complainant filed his charge well beyond the 180-day time period. Respondent terminated Complainant on April 25, 2003 after the urinating incident. The record shows that Complainant filed his charge on September 7, 2005. Complainant has provided no justification for the two-year delay between his termination and the filing of his charge. Indeed, Complainant has filed no response whatsoever to Respondent's Motion. Therefore, there is no genuine issue of material fact regarding the timeliness of Complainant's charge; it was clearly untimely. As a result, this tribunal lacks jurisdiction to consider the merits of his allegations as a matter of law.

RECOMMENDATION

Based on the foregoing, there is no genuine issue of material fact regarding the timeliness of Complainant's charge of discrimination. Complainant's two-year delay in filing his charge renders his charge untimely and deprives this tribunal of jurisdiction to consider the merits of his allegations. Accordingly, it is recommended that: 1) Respondent's Motion for Summary Decision be granted; and 2) the complaint and underlying charge be dismissed in their entirety with prejudice.

HUMAN RI	GHTS (COMM	IISSI	ION
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BY:			

LESTER G. BOVIA, JR.
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: October 20, 2009